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United States Attorney

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8 Attorneys for Defendants

9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 SAN FRANCISCO DIVISION  
12

13 ROSANNA WILSON-FARROW,

14 Plaintiff,

15 v.

16 UNITED STATES OF AMERICA,

17 Defendant.  
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Case No. 14-cv-00112-MEJ

**STIPULATION AND AGREEMENT OF  
COMPROMISE AND SETTLEMENT  
AND ~~PROPOSED~~ ORDER**

22 It is hereby stipulated by and between the undersigned Plaintiff Rosanna Wilson-Farrow and  
23 Defendant United States of America, by and through their respective attorneys, as follows:

24 WHEREAS, Plaintiff filed the above-captioned action on January 8, 2014;

25 WHEREAS, Plaintiff and Defendant wish to avoid any further litigation and controversy and  
26 to settle and compromise fully any and all claims and issues that have been raised, or could have  
27 been raised in this action, which have transpired prior to the execution of this Settlement Agreement  
28 (“Agreement”);

STIPULATION FOR COMPROMISE SETTLEMENT AND RELEASE ~~PROPOSED~~ ORDER

1 NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement,  
2 and other good and valuable consideration, receipt of which is hereby acknowledged, the Parties  
3 agree as follows:

4 1. **Agreement to Compromise Claims.** The parties do hereby agree to settle and  
5 compromise each and every claim of any kind, whether known or unknown, arising directly or  
6 indirectly from the acts or omissions that gave rise to the above-captioned action under the terms and  
7 conditions set forth in this Agreement.

8 2. **Definition of "United States of America."** As used in this Agreement, the United States  
9 of America shall include its current and former agents, servants, employees, and attorneys, as well as  
10 the U.S. Department of Veterans Affairs, and/or its current and former agents, servants, employees,  
11 and attorneys.

12 3. **Settlement Amount.** The United States of America agrees to pay the sum of Ninety  
13 Thousand dollars (\$90,000) ("Settlement Amount"), which sum shall be in full settlement and  
14 satisfaction of any and all claims, demands, rights, and causes of action of whatsoever kind and  
15 nature, arising from, and by reason of any and all known and unknown, foreseen and unforeseen  
16 personal injuries, damage to property and the consequences thereof, resulting, and to result, from the  
17 subject matter of this settlement, including any claims for wrongful death, for which Plaintiff or her  
18 guardians, heirs, executors, administrators, or assigns, and each of them, now have or may hereafter  
19 acquire against the United States of America.

20 4. **Release.** Plaintiff and her guardians, heirs, executors, administrators or assigns hereby  
21 agree to accept the Settlement Amount in full settlement and satisfaction of any and all claims,  
22 demands, rights, and causes of action of whatsoever kind and nature, including claims for wrongful  
23 death, arising from, and by reason of any and all known and unknown, foreseen and unforeseen  
24 personal injuries, damage to property and the consequences thereof which they may have or  
25 hereafter acquire against the United States of America on account of the same subject matter that  
26 gave rise to the above-captioned action, including any future claim or lawsuit of any kind or type  
27 whatsoever, whether known or unknown, and whether for compensatory or exemplary damages.

28 Plaintiff and her guardians, heirs, executors, administrators or assigns further agree to reimburse,  
STIPULATION FOR COMPROMISE SETTLEMENT AND RELEASE [PROPOSED] ORDER



1 indemnify and hold harmless the United States of America from and against any and all such causes  
2 of action, claims, liens, rights, or subrogated or contribution interests incident to or resulting from  
3 further litigation or the prosecution of claims by Plaintiff or her guardians, heirs, executors,  
4 administrators or assigns against any third party or against the United States, including claims for  
5 wrongful death.

6       5. **Dismissal of Action.** In consideration of the payment of the Settlement Amount and the  
7 other terms of this Agreement, Plaintiff shall immediately upon execution of this Agreement also  
8 execute a Stipulation of Dismissal, a copy of which is attached hereto as Exhibit A. The Stipulation  
9 of Dismissal shall dismiss, with prejudice, all claims asserted in this action, or that could have been  
10 asserted in this action. The fully executed Stipulation of Dismissal will be held by Defendant's  
11 attorney and will be filed within five (5) business days of receipt by Plaintiff's attorney of the  
12 Settlement Amount.

13       6. **No Admission of Liability.** This stipulation for compromise settlement is not intended to  
14 be, and should not be construed as, an admission of liability or fault on the part of the United States,  
15 and it is specifically denied that it is liable to the Plaintiff. This settlement is entered into by all  
16 parties for the purpose of compromising disputed claims and avoiding the expenses and risks of  
17 further litigation.

18       7. **Parties Bear Their Own Costs.** It is also agreed, by and among the parties, that the  
19 respective parties will each bear their own costs, fees, and expenses and that any attorney's fees  
20 owed by the Plaintiff will be paid out of the Settlement Amount and not in addition thereto.

21       8. **Attorney's Fees.** It is also understood by and among the parties that pursuant to Title 28,  
22 United States Code, Section 2678, attorney's fees for services rendered in connection with this  
23 action shall not exceed 25 per centum of the amount of the compromise settlement.

24       9. **Authority.** The persons signing this Agreement warrant and represent that they possess  
25 full authority to bind the persons on whose behalf they are signing to the terms of the settlement.

26       10. **Waiver of California Civil Code § 1542.** The provisions of California Civil Code  
27 Section 1542 are set forth below:

1 "A general release does not extend to claims which the creditor does not know or  
2 suspect to exist in his or her favor at the time of executing the release, which if known  
3 by him or her must have materially affected his or her settlement with the debtor."

4 Plaintiff having been apprised of the statutory language of Civil Code Section 1542 by her attorney,  
5 and fully understanding the same, nevertheless elects to waive the benefits of any and all rights she  
6 may have pursuant to the provision of that statute and any similar provision of federal law. Plaintiff  
7 understands that, if the facts concerning Plaintiff's injury and the liability of the government for  
8 damages pertaining thereto are found hereinafter to be other than or different from the facts now  
9 believed by them to be true, the Agreement shall be and remain effective notwithstanding such  
10 material difference.

11 11. **Payment by Check.** Payment of the Settlement Amount will be made by check drawn  
12 on the Treasury of the United States for Ninety Thousand dollars (\$90,000) and made payable to  
13 Rosanna Wilson-Farrow, Plaintiff, and Smith Law Offices, LLP Client Trust, Plaintiff's attorneys.  
14 The check will be mailed to Plaintiff's attorneys at the following address: 4204 Riverwalk Parkway,  
15 Suite 250, Riverside, CA 92505. Plaintiff's attorney agrees to distribute the settlement proceeds to  
16 the Plaintiff. Plaintiff and her attorney have been informed that payment of the Settlement Amount  
17 may take sixty (60) days or more from the date that the Court "so orders" this Agreement to process.

18 12. **Tax Liability.** If any withholding or income tax liability is imposed upon Plaintiff or  
19 Plaintiff's counsel based on payment of the Settlement Amount, Plaintiff or Plaintiff's counsel shall  
20 be solely responsible for paying any such determined liability from any government agency.

21 Nothing in this Agreement constitutes an agreement by the United States of America concerning the

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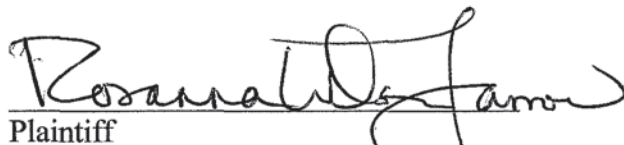
1 characterization of the Settlement Amount for the purposes of the Internal Revenue Code, Title 26 of  
2 the United States Code.

3 13. **Construction.** Each party hereby stipulates that it has been represented by and has  
4 relied upon independent counsel in the negotiations for the preparation of this Agreement, that it has  
5 had the contents of the Agreement fully explained to it by such counsel, and is fully aware of and  
6 understands all of the terms of the Agreement and the legal consequences thereof. For purposes of  
7 construction, this Agreement shall be deemed to have been drafted by all Parties to this Agreement  
8 and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

9 14. **Severability.** If any provision of this Agreement shall be invalid, illegal, or  
10 unenforceable, the validity, legality, and enforceability of the remaining provision shall not in any  
11 way be affected or impaired thereby.

12 15. **Integration.** This instrument shall constitute the entire Agreement between the parties,  
13 and it is expressly understood and agreed that the Agreement has been freely and voluntarily entered  
14 into by the parties hereto with the advice of counsel, who have explained the legal effect of this  
15 Agreement. The parties further acknowledge that no warranties or representations have been made  
16 on any subject other than as set forth in this Agreement. This Agreement may not be altered,  
17 modified or otherwise changed in any respect except by writing, duly executed by all of the parties  
18 or their authorized representatives.

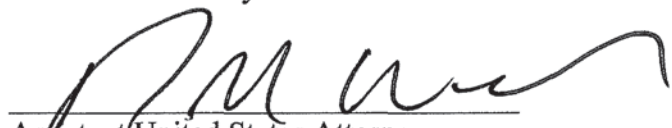
19 DATED: July 26, 2016

  
Plaintiff

21 DATED: July 31, 2016

  
Plaintiff's Attorney

23 DATED: <sup>Aug. 19</sup>  
24 July 2016

  
Assistant United States Attorney  
Attorney for Defendant

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: August 19, 2016

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HON. MARIA-ELENA JAMES  
United States Magistrate Judge

## **EXHIBIT A**

1 BRIAN J. STRETCH (CABN 163973)  
2 United States Attorney

3 SARA WINSLOW (DCBN 457643)  
4 Chief, Civil Division

5 ROBIN M. WALL (CABN 235690)  
6 Assistant United States Attorney

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17 ROSANNA WILSON-FARROW,  
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Case No. 14-cv-00112-MEJ

**STIPULATION OF DISMISSAL WITH  
PREJUDICE**

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STIPULATION OF DISMISSAL  
14-CV-00112 MEJ



**STIPULATION OF DISMISSAL WITH PREJUDICE**

Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), Plaintiff Rosanna Wilson Farrow and Defendant United States of America hereby stipulate to dismiss with prejudice the above-captioned action, including all claims asserted therein. The parties further stipulate that each party will bear its own costs and attorney's fees.

DATED: \_\_\_\_\_, 2016

\_\_\_\_\_  
ROSANNA WILSON-FARROW  
Plaintiff

DATED: \_\_\_\_\_, 2016

\_\_\_\_\_  
PAUL J. BURKHART  
SMITH LAW OFFICES, APC  
Attorneys for Plaintiffs

DATED: \_\_\_\_\_, 2016

\_\_\_\_\_  
ROBIN M. WALL  
Assistant United States Attorney  
Attorney for Defendant USA